

MEMORANDUM OF LAW

DATE: June 19, 1987

TO: Charles G. Abdelnour, City Clerk

FROM: City Attorney

SUBJECT: Public Review of Ballot Arguments

By memorandum of June 4, 1987, you describe your practice of keeping ballot arguments submitted prior to the statutory ten (10) day public review period private. Thereafter, of course, you make them public for the requisite period and then submit them to the Registrar of Voters for printing. While pointing out that the Registrar follows the same procedure, you seek our view of your legal authority for this practice.

We find that limiting public review to the proscribed time frame promotes the orderly preparation of the ballot arguments and insures fairness and hence complies with the intent of the Elections Code. Our reasoning follows.

California Elections Code section 5025 provides for a minimum ten (10) calendar day public inspection period of arguments and analysis of election materials while Section 5015 allows the Clerk to fix a date prior to the election after which no arguments on any city measure may be submitted.

By not disclosing arguments that are filed early, the Clerk is simply insuring an orderly and consistent examination period of ballot materials. Were he to make such materials public on receipt, he would artificially expand the time for examination beyond the ten (10) calendar day period required by Section 5025 and give a potentially unfair advantage to those who had not filed their arguments. Opponents who viewed arguments filed early would necessarily have more time and information to use in their opposition argument.

Since the whole purpose of ballot materials is to fairly inform the electorate, this goal is best promoted by affording

each side, both proponent and opponent, the same time frame of ten (10) calendar days for review of ballot materials. Hence we find no fault in the Clerk's current practice.

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

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